

REMARKS

Claims 12-14, 16, 18, and 30-31 are currently pending in the present application. Reconsideration of the claims are respectfully requested.

The Examiner rejected Claims 12-14, 16, 18, 30, and 31 under 35 U.S.C. § 103(a) as being unpatentable over Toshima et al. (U.S. Patent No. 6,613,692). This rejection is respectfully traversed.

As previously communicated, Applicants note that Toshima was filed in the U.S. on July 28, 2000 and issued on September 2, 2003. The present application has claimed foreign priority to, *inter alia*, Japanese Application No. JP2001-009208, which was filed in Japan on January 17, 2001. Hence, the present application claims a foreign priority date earlier than the earliest effective prior art date of Toshima.

And, although Toshima has an earlier U.S. filing date than the foreign priority date of the present application and hence is *prima facie* prior art under 35 U.S.C. § 102(e), the present application, Applicants hereby state that the present application and Toshima were, at the time the invention of the present application was made, owned by Tokyo Electron (the assignee of the present application). Accordingly, under 35 U.S.C. § 103(c), Toshima is not available as a prior art reference for purposes of any rejections under 35 U.S.C. 103(a) (*see also* M.P.E.P. 706.02(1)(2)). Applicant therefore respectfully requests the Examiner's withdrawal of the rejection under 35 U.S.C. § 103(a).

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance, pending the Examiner's reexamination of the claims.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 199372003910.

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Respectfully submitted,

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